

DEC 10 2007

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS ALBERTO MARQUEZ  
BUENROSTRO; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY,\*\* Attorney  
General,

Respondent.

Nos. 05-74325  
05-76149

Agency Nos. A73-398-053  
A73-398-054  
A73-398-055

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted December 3, 2007\*\*\*

Before: GOODWIN, WALLACE and FISHER, Circuit Judges.

Carlos Alberto Marquez Buenrostro, his wife and daughter, all natives and  
citizens of Mexico, petition for review of the Board of Immigration Appeals'

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\* This disposition is not appropriate for publication and is not  
precedent except as provided by 9th Cir. R. 36-3.

\*\* Michael B. Mukasey is substituted for his predecessor, Alberto R.  
Gonzales, as Attorney General of the United States, pursuant to Fed. R. App. P.  
43(c)(2).

(“BIA”) order denying their first motion to reopen deportation proceedings (No. 05-74325) and the BIA’s order denying their second motion to reopen deportation proceedings (No. 05-76149). To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review for abuse of discretion, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny in part and dismiss in part the petition for review in No. 05-74325, and we deny the petition for review in No. 05-76149.

The BIA did not abuse its discretion in denying Petitioners’ first motion to reopen as untimely because it was filed more than two years after the BIA’s final order of removal, *see* 8 U.S.C. § 1003.2(c)(2) (motion to reopen must be filed within ninety days of final administrative decision), and the BIA clarified its earlier ruling in accordance with *Lanza v. Ashcroft*, 389 F.3d 917 (9th Cir. 2004), in any event.

We lack jurisdiction to consider Petitioners’ challenge to the BIA’s underlying order dismissing their direct appeal from the immigration judge’s decision because the petition for review is not timely as to that order. *See Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003)

The BIA did not abuse its discretion in denying Petitioners’ second motion to reopen because it was numerically barred and did not meet any of the regulatory exceptions. *See* 8 C.F.R. § 1003.2(c)(2), (3). Moreover, the BIA properly concluded that Petitioners were not eligible for repapering because a final

administrative order had been issued. *See, e.g., Alcaraz v. INS*, 384 F.3d 1150, 1152-53 (9th Cir. 2004) (explaining eligibility requirements for repapering).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part in No. 05-74325.**

**PETITION FOR REVIEW DENIED in No. 05-76149.**